

## Direct Debit Arrangements

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**Overview:**

Following concerns raised at the end of last year Ofgem reviewed suppliers' direct debit arrangements. Ofgem found no evidence of unjustified increases in direct debits nor of systematic errors. However it was clear that supplier processes and communications could be improved. We therefore set out what we saw as best practice and sought views on a potential licence condition. Following our report suppliers have taken action to improve their service but we are concerned that with the prospect of continuing volatile prices some suppliers may not be doing enough and we believe it is important we have the powers to act if problems recur.

The Authority has therefore decided to introduce a new licence condition requiring Domestic Customers' direct debit payment levels to be based on the best available information and to be clearly explained to Domestic Customers. Any credits built up must not be unreasonably withheld.

We invite any final representations on the new licence condition and seek the consent of suppliers to make the modifications. Subject to responses, we intend to introduce the new licence conditions to take effect from 18 January 2010. Responses are requested by 30 October 2009.

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## Context

- Following concerns raised at the end of 2008, Ofgem initiated a review of suppliers' direct debit arrangements. In March 2009, we set out our initial findings and identified for consultation possible measures to tackle the issues raised. In light of that consultation, this document sets out Ofgem's views on the responses and Ofgem's proposed way forward.

## Associated Documents

- Direct Debit Report - published 27 March 2009  
<http://www.ofgem.gov.uk/Pages/MoreInformation.aspx?docid=2&refer=Consumers/CCI>

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## Summary

### **Our March 2009 Report**

Monthly direct debits are an important way of paying for energy. For 14.7 million consumers who use direct debits, they allow the cost of energy to be spread across a year and are often cheaper than payment by other means.

Towards the end of 2008, a number of concerns were being expressed about direct debit payments and whether the increases that many customers were experiencing were justified. As a consequence we launched an investigation into suppliers' direct debit arrangements. Through our investigation we found no evidence of a deliberate strategy by any supplier to increase payment levels to improve cash flow and no evidence of systematic errors in the calculation of direct debit payments. However, we identified a number of ways in which suppliers' processes could be improved to minimise unnecessary fluctuations in payment levels and improve communications.

We published our findings in March 2009 and set out what we considered to be best practice in all the areas where we found problems. We also sought views on whether a licence condition was needed to remedy the weaknesses we had found in suppliers' direct debit arrangements and reinforce the need for direct debits to work better or whether suppliers could deliver the improvements we had identified through self-regulation.

We are pleased that the suppliers recognised the validity of the issues raised in our Report and have taken positive steps to address these problems. In particular we note that British Gas have made a significant effort to introduce changes into its direct debit arrangements which had previously been the source of the highest level of complaints. Further we welcome the fact that our elements of best practice have generally been well received and that they appear to have been used by many suppliers as a starting point for altering their direct debit arrangements.

### **Proposed licence condition**

Nevertheless, following consideration of the responses, the Authority has come to the conclusion that new licence conditions are required to address the weaknesses in the Suppliers' direct debit arrangements identified in our Report and that it would be inappropriate to leave consumers without the protection of a licence condition in the absence of a clear indication that self-regulation would deliver. In particular, we note that it took our investigation and Report to prompt real changes amongst the suppliers and that there are still weaknesses in the approaches of some suppliers. The introduction of a new licence condition is of particular importance in view of the fact that a number of vulnerable consumers use direct debit and find it difficult to cope with unexpected increases in their bills. With the credit crunch continuing we are committed to addressing issues which lead to an increased risk of debt. Moreover, with price volatility likely to continue this cannot be dismissed as a one-off issue. We have therefore concluded that the introduction of a new licence condition

on direct debits is necessary to protect the interests of existing and future consumers.

We consider that a licence condition based on our proposed Option B (a high level obligation) would be the most appropriate as it is not overly prescriptive. This allows suppliers to continue to innovate in this area and have flexibility in how they comply with the obligations. It also avoids the danger of the licence condition being too narrow to cover unanticipated problems or being rendered obsolete by changing circumstances, enabling us to intervene when necessary to protect consumers.

We therefore think that there are real benefits to having a more broadly drafted licence condition which focuses on securing outcomes for consumers rather than specifying mechanisms that should be used. This is consistent with the approach we have adopted to the new standards of conduct we are introducing where we focus on principles rather than prescriptive requirements. The themes in these standards of suppliers providing clear explanations to customers and of acting promptly and courteously apply equally to direct debit arrangements.

We consulted suppliers and consumer groups on the detailed drafting of such a licence condition informally over the summer and took account of the comments made. This document contains the statutory consultation on modifications to supply licences. We are proposing that a licence condition imposing the following obligations should be introduced:

- the licensee must take all reasonable steps to ensure that domestic customers' direct debit payment levels are based on the best available information, including the quantity of electricity or gas supplied or to be supplied to the domestic customer;
- the licensee must explain clearly the basis for the domestic customer's direct debit payment level to the customer; and
- the licensee must refund credit which has accumulated in a domestic customer's account at the request of the domestic customer unless there are reasonable grounds for withholding that credit. The reasons for withholding that credit must be conveyed to the domestic customer (who will then be able to challenge this if they consider it to be wrong).

We do not think that the new licence condition should apply to business customers at this stage as we did not analyse the suppliers' direct debit arrangements in relation to those customers in our Report. However, we have concluded that the new licence conditions should be imposed on all suppliers regardless of their size. This is because we do not anticipate that the obligations will place an undue burden on smaller suppliers and we do not think customers of smaller suppliers should experience lower standards of protection than other customers.

Subject to responses, we intend the new licence conditions to be introduced and have effect by 18 January 2010, to allow time for implementation but hope that many suppliers will be able to introduce any necessary changes before then where they are already working to implement the best practice recommendations from our Report.

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## 1. Introduction

### Investigation

1.1. Monthly direct debits are an important way of paying for energy. For 14.7 million domestic consumers who use direct debits, they allow the cost of energy to be spread across a year and are often cheaper than payment by other means. For suppliers, compared to quarterly billing in arrears, direct debit payment methods provide greater certainty and immediacy of payment and some associated savings. This is recognised by the widespread offering of discounts for payment by direct debit. There is therefore mutual interest in making direct debit arrangements work effectively.

1.2. Towards the end of 2008, a number of concerns were being expressed about direct debit payments and what were seen as unjustified increases in the payments demanded by suppliers, even where customers were in significant credit. As a consequence we launched an investigation into suppliers' direct debit arrangements.

1.3. Through our investigation we found no evidence of a deliberate strategy by any supplier to increase cash flow through unjustified increases in direct debits and no evidence of systematic errors in the calculation of direct debit payments. However, in some cases, suppliers' processes resulted in very significant increases in payments and large credit / debit balances.

1.4. At the heart of the problem was a lack of transparency and poor communication by suppliers. We found that direct debit arrangements were opaque and the precise way in which they operated was unclear. The explanation given to customers by most suppliers when they were notified of a revised payment was wholly inadequate. Suppliers should have been able to explain to consumers on an individual basis how they arrived at the monthly direct debit payments and most could not. Where customers contacted customer service, staff often could not explain how the payment was calculated and a revised payment level was negotiated on the basis of no understanding from the customer of the implications. There was some evidence of payments being lowered in response to a call from a customer but then increased significantly a few months later without adequate explanation. There were also significant differences and a lack of clarity in the practices of the suppliers on refunding credits.

1.5. Where suppliers delayed making a reassessment until some time after a price increase and, in particular, if they then required repayment of any debit balance over a short period, there could be very significant swings in the direct debit payment levels. This presented a particular problem for customers on low income.

## **Report and Consultation**

1.6. We published our findings in March 2009 in the Direct Debit Arrangements Report and Consultation (the "Report") and set out what we considered to be best practice in all the areas where we found problems. We asked stakeholders to comment on our findings and the elements of best practice we had identified, including whether there were any other elements of best practice we should consider.

1.7. We also sought views on whether a licence condition was needed to remedy the weaknesses we had found in suppliers' direct debit arrangements or whether suppliers could deliver the improvements we had identified as necessary through self-regulation. We also asked, if we were to introduce a new licence condition, which of the three models we identified would be preferred and whether the licence condition should apply to small business customers and be imposed on all suppliers regardless of their size. Finally, we requested comments on what stakeholders felt would be a realistic timescale for implementation of these changes.

## **Consultation Responses**

1.8. We received 20 responses to our consultation. A list of those who responded is set out in Appendix 1.

- The respondents broadly agreed with our findings and the elements of best practice that we had identified. The additional elements of best practice which respondents considered we should take into account are set out in Appendix 3.
- Four consumer groups and one supplier supported the introduction of new licence conditions to address the problems we had identified. Nine suppliers objected to the introduction of any new licence conditions.
- Four consumer groups said that self-regulation was not an appropriate response in this case and three small suppliers. Eight industry respondents asserted that the issues identified could be dealt with by self-regulation.
- Most of the suppliers declined to state which licence condition option they preferred but overall Option B (a high level obligation) received the greatest support.
- Eight industry respondents said that small business customers should not be covered by any new licence condition and three consumers did not comment on this matter. Six respondents were in favour of any new licence condition we introduced covering small business customers.
- Four respondents said if an obligation was adopted it should be imposed on all suppliers irrespective of their size. One consumer group said that any obligation adopted should also cover small business customers but that an impact assessment would need to be carried out first.

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## 2. Views on our findings

We are pleased that there was broad support for our findings and for the elements of best practice we identified. A number of suppliers are already taking steps to implement the changes we suggested.

### **Question 1 – Was the analysis of the issues correct?**

2.1. In chapter 2 of the Report we set out the conclusions we had drawn from our investigation into suppliers' direct debits arrangements. In particular, we found that there was no deliberate strategy by suppliers to apply unjustified increases to bolster their cash flows nor of systematic errors. However, suppliers' processes did lead to large swings in payment levels and debits/credits at a time of volatile prices and suppliers' communication of changes was very poor. We asked if stakeholders agreed with our analysis of the issues.

#### *Respondents' Views*

2.2. All the respondents broadly agreed with our analysis of the issues. One small supplier commented that the analysis was based on the direct debit arrangements of the 'big 6' suppliers. Two other suppliers emphasised that prior to late 2008 there had been noticeably fewer complaints in relation to direct debit schemes.

#### *Ofgem's View*

2.3. We are pleased that suppliers have recognised the validity of the issues raised in our Report and have taken positive steps to address these problems. We accept that there were many more direct debit complaints after late 2008 when, among other factors, the fluctuation in energy prices exacerbated problems with administering direct debit schemes. However we think that the external factors merely highlighted the systematic weaknesses in suppliers' direct debit arrangements and cannot be relied on to detract from the need for suppliers to reform their direct debit schemes. Furthermore we think that price volatility is likely to continue for some time so the underlying issue will not go away.

### **Question 2 – Do you agree with our elements of best practice?**

2.4. In light of some of the failings we identified in the suppliers' direct debit arrangements we set out certain elements of best practice which suppliers should be looking to adopt as soon as possible. In particular we made best practice recommendations in relation to:

#### *Action to ensure payments are set at an appropriate level*

- suppliers should ensure that reassessments are carried out on a timely basis;
- suppliers should provide flexibility on the timescales over which any outstanding amounts are recovered;
- suppliers should ensure they have regular actual meter readings and encourage meter readings by customers;



- suppliers should look at ways to get more robust usage information for new customers.

*Action to improve transparency and communication*

- suppliers should provide individual explanations to customers of the basis on which their direct debit payments have been reassessed;
- suppliers should provide clear explanations of how direct debit works, including when customers move onto direct debit;
- when notifying customers of revised payment levels, suppliers should make clear that customers can contact them to discuss any concerns;
- customer service staff should have access to the information necessary to enable them to explain clearly to customers the implications of any changes to their direct debit payments.

*Refunds of credit*

- suppliers should ensure that credits are not unreasonably withheld;
- suppliers should set out clearly what their refund policies are.

2.5. We asked stakeholders if they agreed with the elements of best practice we had identified.

*Respondents' Views*

2.6. The respondents broadly agreed with the elements of best practice that we set out. In addition a number of suppliers told us they were taking steps to implement many of the reforms we had suggested.

2.7. Three industry respondents raised concerns that some of the best practice recommendations covered areas which were already being addressed as part of Ofgem's Energy Supply Probe and there might be some duplication of proposals. Another issue raised by three industry respondents was that some of the elements of best practice would require changes to the suppliers' IT systems which would be costly. Two industry respondents said that the costs would be disproportionate to the benefit gained by the consumer.

2.8. Furthermore two industry respondents said that specifying the remedial action that should be taken by the suppliers in too much detail would interfere with companies being able to innovate and differentiate their services in the competitive market. One industry respondent commented that some reforms, such as suppliers obtaining more meter readings, would require action to be taken by customers and education would be important to facilitate this.

2.9. Two industry respondents raised concerns on our recommendation that all discussions between a supplier and a customer concerning the basis of a customer's direct debit payments, or the implications of a reassessment of their direct debit payments, should be followed up in writing. The criticism levelled was that it was not in line with Ofgem's Consumer Complaint Handling Standards Guidelines which allow

for consumer complaints to be processed orally or in writing according to the customer's wishes.

#### *Ofgem's View*

2.10. We welcome the fact that our elements of best practice have generally been well received and that they appear to have been used by many suppliers as a starting point for altering their direct debit arrangements.

2.11. We are aware that some of the issues covered in the Report are also being looked at under the Energy Supply Probe and are conscious of the need to coordinate our action. We comment further on this issue in Chapter 4.

2.12. We are alert to the fact that certain of the elements of best practice we have suggested may require some suppliers to modify their IT systems and incur costs in doing so. However, we note that the elements of best practice are not in themselves mandatory.

2.13. In relation to the complaint that the elements of best practice are too prescriptive we would note that they are not intended to be obligatory rules but rather to give an indication of the aspects of performance that we would expect suppliers to be focussing on. Suppliers are free to provide higher service standards to consumers or to use innovative methods to provide the same levels of consumer benefit to attract customers and thereby gain a competitive advantage. We do not believe that our recommendations will prevent suppliers differentiating their services in the market.

2.14. Finally, we do not think that our recommendation that all discussions between a supplier and a customer concerning the basis of a customer's direct debit payments, or the implications of a reassessment of their direct debit payments, should be followed up in writing is inconsistent with Ofgem's Consumer Complaint Handling Standards, where the choice lies with the consumer how they wish to progress their complaint. Where the direct debit level is changed following a customer service contact we would expect this to be confirmed in writing, in line with the Direct Debit Guarantee scheme and believe that as a part of that customers should be warned if, for example, there is a risk that their repayment level will need to be reviewed again within a short period. However, we would note that this is only a recommendation, not a mandatory requirement, and suppliers can determine what actions are required to ensure customers fully understand what they have agreed to.

### **Question 3 – Recommendations of additional elements of best practice**

2.15. We asked stakeholders whether there were any other elements of best practice which they thought we ought to consider.

#### *Respondents' Views*

2.16. Six respondents, including one supplier, made a number of suggestions which are set out in the table in Appendix 3.

*Ofgem's View*

2.17. We are grateful to have received these proposals for additional best practice recommendations. However we think some of the suggestions deal with issues that have already been covered by our elements of best practice and others are too detailed to be specified as best practice as they would restrict suppliers' ability to respond in innovative ways to the issues raised. Nevertheless we think that suppliers and the Energy Retail Association should examine the suggestions made to see whether they would want to take any of the proposed changes further.

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### 3. Views on what action we should take

In our Report we sought views on whether a licence condition was needed or whether the issues could be addressed through self-regulation. While suppliers suggested that a licence condition was not necessary we remain of the view that this is an important issue where regulatory protection is required.

#### **Question 1 – Is a licence condition needed?**

3.1. In chapter 3 of the Report we examined the possible action that could be taken to address the issues identified in our investigation. We came to the conclusion that further regulatory action might be required to ensure the interests of existing and future consumers are protected. We asked stakeholders whether they thought a licence condition was needed to tackle the problems we identified in suppliers' direct debit arrangements.

#### *Respondents' Views*

3.2. Four consumer groups and one small supplier supported the introduction of a new licence condition to address the problems we had identified in our report. Nine industry respondents did not support the introduction of a new licence condition.

3.3. A number of arguments were raised as to why a new licence condition should not be introduced:

- as the Report found that there was no evidence of a deliberate strategy on the part of suppliers to boost cash flow, and no evidence of systematic errors in the suppliers' calculations, a licence condition was not required;
- a licence condition is unnecessary as suppliers are already responding to the issues we raised in our Report and are amending their direct debit arrangements accordingly;
- questions of customer service should be left to the market to decide as customers will change to suppliers who provide better customer service;
- a new licence condition would restrict suppliers' ability to differentiate their products and to innovate;
- a new licence condition is unnecessary because customers already have protection in the form of the Complaint Handling Regulations, the Direct Debit Guarantee and the Energy Ombudsman;
- a new licence condition would involve system changes and associated IT costs.

*Ofgem's View*

3.4. It is true that we found no evidence of a deliberate strategy on the part of suppliers to boost cash flow and found no evidence of systematic errors in the suppliers' calculations. Nevertheless we found significant weaknesses in suppliers' direct debit arrangements which caused serious problems for a number of customers. We do not think the absence of evidence of 'profiteering' means that there are not important problems that the Authority needs to take action on to protect the interests of existing and future consumers.

3.5. We are pleased that as a result of our Report all of the six main suppliers have taken steps to improve their direct debit arrangements. However there was a range of responses from suppliers and we are not convinced that sufficient progress has been made across the industry as a whole to address the problems raised in our report. In particular not all suppliers have signalled a willingness to move to provide individual statements on a timely basis and we are not persuaded that simply dealing with the issue through call centres as proposed by E.ON is appropriate for many customers. As a consequence we consider it is necessary to take regulatory action to respond to the issues that have emerged rather than rely entirely on suppliers to self-regulate in the light of our Report.

3.6. We agree that it is important to allow the market to influence the development of services provided by suppliers. However it should be noted that market pressures were not sufficient to prevent the significant weaknesses we identified in the direct debit arrangements of all the six main suppliers. Furthermore, as highlighted by Consumer Focus, whilst poor customer service is a factor which may be taken into account by customers when they are considering whether to change energy supplier it is not a factor that always prompts customers to switch suppliers. We do not believe we can rely on the market alone to improve direct debit standards.

3.7. Nevertheless we do accept that it is important for suppliers to be able to differentiate their products in the market place by offering consumers better standards of service and for suppliers to be able to adopt innovative approaches in delivering those service standards. We believe that the introduction of a new licence condition does not automatically undermine this and, provided the licence condition is not overly prescriptive, suppliers would still be able to differentiate their service.

3.8. We note the comments that have been made by some suppliers that a new licence condition is unnecessary because customers already have protection in the form of the Complaint Handling Regulations, the Direct Debit Guarantee or the Energy Ombudsman. We do not find these arguments convincing. The Direct Debit Guarantee provides very limited protection in relation to direct debits and does not really tackle any of the issues raised in our Report. The Complaints Handling Regulations and Energy Ombudsman provide support for individual consumers who are prepared to pursue a complaint against their supplier but does not allow for wider, coordinated action to be taken where a supplier's performance has affected a large number of customers.

3.9. We do not consider that the introduction of a new licence condition would usurp the role of the Energy Ombudsman in any way. On the contrary we believe that a new licence condition would assist the work of the Energy Ombudsman insofar as it provides a standard in relation to direct debits against which he could evaluate a particular supplier's conduct.

3.10. Finally the complaint was made by two industry respondents that requiring suppliers to use specific methods to provide better consumer standards for direct debits would involve IT systems changes which would be costly and disproportionate, although no details were given of the level of costs involved. We think that the significance of this concern will be reduced by adopting a licence condition which allows suppliers the freedom to use different methods to achieve the level of consumer protection set out in the licence condition. Furthermore we think that the benefit to consumers justifies the possible costs that suppliers might incur in amending their direct debit arrangements. Implementing these changes is particularly important in light of the fact that 25% of fuel poor customers pay by direct debit, with those on low incomes especially affected by large unexpected changes in payment levels.

## **Question 2 – Can the problems identified be addressed through self-regulation?**

3.11. In addition, we asked stakeholders whether they considered that suppliers could deliver the improvements we had identified through self-regulation.

### *Respondents' Views*

3.12. Four consumer groups said that self-regulation did not appear to be an appropriate solution in this case. Three small suppliers and three consumers did not comment on the issue. Eight industry respondents said that the issues identified in the Report could be dealt with by self-regulation.

3.13. A number of the industry respondents who took the view that self-regulation constituted a viable alternative to the introduction of a new licence condition said that they were already in the process of amending their direct debit arrangements and that we should allow them time to implement the proposed changes. It was contended that we could set a date by which we would review what the suppliers had done and if we were still not happy with what the suppliers had accomplished we could revisit the possibility of a licence condition.

### *Ofgem's View*

3.14. We consider the issues raised in the report to be so important that we believe that it would be inappropriate to leave consumers without the protection of a licence condition in the absence of a clear indication that self-regulation would provide sufficiently rigorous consumer standards. We are pleased that the six main suppliers have taken positive steps to improve their direct debit arrangements and that the Energy Retail Association (ERA) has been proactive in developing its commitment on Direct Debit Arrangements which it has recently publicised. However, there are still

weaknesses in the approaches of various suppliers and what has been proposed by the ERA. In particular, the ERA code does not have any enforcement mechanism associated with it. As a result, we are not confident that self-regulatory arrangements would be sufficiently effective across the industry as a whole in delivering the changes needed.

### **Conclusion**

3.15. Overall, we consider that introducing a new licence condition is a proportionate response to the problems we identified in the Report. The introduction of a new licence condition is of particular importance in view of the fact that, as shown in our Report, many customers on relatively low incomes use direct debit and find it difficult to cope with unexpected increases in their bills. With the credit crunch continuing we are committed to addressing issues which lead to an increased risk of debt and with price volatility likely to be a feature of energy markets going forwards this is not a problem that can be expected to go away. We think that the introduction of a new licence condition on direct debits is necessary to protect the interests of existing and future consumers.

## 4. Views on the nature and scope of any new licence obligations

In our consultation we sought views on different options for licence drafting. We have decided to pursue a high level obligation which specifies the outcomes we would wish to see but leaves flexibility for suppliers on how to achieve those outcomes.

### **Question 1 – What form should the new licence condition take?**

4.1. In chapter 4 of the Report we suggested three possible types of licence condition that we had considered adopting -

- Option A : a targeted condition
- Option B : a broader condition setting out a high level expectation
- Option C : a requirement for a code of practice.

4.2. The three options are set out in full in Appendix 2.

4.3. We asked stakeholders which of Options A, B or C they thought would be the better approach and asked if there were any other models that we should consider.

#### *Respondents' Views*

4.4. Four respondents (including two consumer groups, one supplier and one small supplier) said that they favoured option B. Two respondents (one supplier and one consumer group) said that Option A would be the better approach. One consumer group said that they thought Option C should be adopted. Two suppliers said that a licence condition somewhere between Option A and Option B would be best.

4.5. Nine respondents said that they were not able to recommend any of the options or did not comment on the matter at all. However of these respondents two small suppliers said they most strongly objected to Option C and one supplier and one small supplier objected more strongly to Options A and C than Option B.

4.6. Two consumer groups and one supplier suggested amendments to the proposed wording or recommended the introduction of new or additional licence conditions.

4.7. One supplier stated that Option B, by applying to payment methods other than direct debits, went beyond what was required by the Report as it did not include a comment on whether there were systematic problems or errors in suppliers' calculation of payment amounts generally.



4.8. A large proportion of the respondents saw Option C as too bureaucratic and it was the most strongly opposed option. Small suppliers were concerned that if the required industry code of practice was developed by the ERA they would not be involved.

#### *Ofgem's View*

4.9. We consider that a licence condition based on Option B would be the most appropriate as it is more broadly worded. In line with our better regulation duty we think it is important to avoid an overly prescriptive licence condition. We believe that a licence condition which incorporates a higher level obligation will enable suppliers to use innovative methods to meet the standards specified and allow suppliers to differentiate their products in the market. Equally it would avoid the danger of the licence condition being too narrow to cover unanticipated problems or being rendered obsolete by changing circumstances. We therefore think that there are real benefits to having a more broadly drafted licence condition which focuses on securing outcomes for consumers rather than specifying how these should be achieved.

4.10. Furthermore we believe this approach is supported by the majority of respondents. Most of the respondents who specifically stated which option they preferred chose Option B and other respondents, who declined to choose an option, displayed the least discontent with Option B.

4.11. At the beginning of August we wrote to suppliers and consumer groups seeking comments on detailed drafting of a condition based on Option B. The first element of the proposed condition would be to require suppliers to take all reasonable steps to ensure that a customer's direct debit payment levels are based on the best available information. This will help to address a number of the problems we identified in our Report, including our concerns that direct debit payment levels were not being reassessed quickly enough after retail price changes and the fact that some suppliers were not doing enough to encourage customers to provide meter readings.

4.12. We also think that requiring suppliers to explain the basis of direct debit payment levels to customers in a clear and intelligible manner is necessary to enable them to understand and check the accuracy of their bills in a meaningful way.

4.13. We have considered the point made by some respondents that Option B did not make it explicit that suppliers should not unnecessarily build up credit in a customer's account. This issue was one of the particular problems identified in the Report. We are satisfied that the proposed condition will address it. If, in accordance with the proposed licence condition, suppliers are using the best available information to calculate direct debit payment levels, a customer should not be unnecessarily building up credit or debit. We expect suppliers to be proactive in the steps they take to ensure this is the case.

4.14. While some consumer groups wanted us to specify a level at which automatic refunds would be provided we believe this would be too prescriptive. The appropriate level of credit will vary depending on the time of year when the account is reviewed and on past consumption, for example.

4.15. In addition, we believe that suppliers should be required to give reasons for refusing to refund credit to a customer to help the customer understand this and, if appropriate, to help them challenge the supplier if they wish to do so.

4.16. We note the concern expressed that the original language of Option B was too widely drafted to the extent that it covered all types of payments not just direct debit payments. As our investigation and subsequent Report specifically focused on the problems with suppliers' direct debit arrangements we think that the new licence conditions should seek to address the issues surrounding regular direct debit payments of fixed amounts rather than payments generally. This is reflected in the revised drafting.

4.17. In addition, we recognise that suppliers may in future wish to develop innovative offerings such as Scottish Power's tariff where interest is paid on higher credit levels. We would not wish to discourage such innovation and hence have allowed an exception to be made to the condition where there are explicit contractual terms covering the issue. The principle behind this is that the supplier will have explained the terms clearly to the customer and that the customer will have consciously signed up to them.

4.18. In some cases suppliers sought clarification of what we would consider "reasonable" in the context of the licence drafting. We do not wish to prescribe what suppliers should be doing but are sensitive to concerns about regulatory certainty. We would therefore stress that we would generally expect to take action under this condition where there is evidence of consumer detriment and would then judge whether a supplier's actions were reasonable in the context of the relevant elements of the best practice guidance we have published.

4.19. Consumer Focus raised a further concern about the need for suppliers to take account of ability to pay in setting repayment levels where a debit has built up. In our view this is already covered by SLC 27.

4.20. The licence drafting that we are proposing and on which we are now formally consulting is set out at Appendix 4 (electricity) and Appendix 5 (gas). The two conditions are the same.

### **Links with the Probe**

4.21. As noted in Chapter 2, we have considered the interactions of these proposals with our work on the Energy Supply Probe. This has resulted, in particular, in the publication for consultation on 7 August 2009 of licence condition 25.7(c) entitled "Marketing Electricity/Gas to Domestic Customers" which requires suppliers to explain how any direct debit payment level proposed as part of a face-to-face sale relates to the annual estimate of charges that the sales agent has to provide. The purpose of this is to avoid situations where customers are persuaded to switch supplier based on the promise of reduced direct debit payments, where the actual price may not be any lower. Suppliers can rely on the same documentation to meet their obligations under the proposed condition 25.7(c) and the condition proposed

here. However, where direct debit levels are not covered as part of a face-to-face sale, then suppliers would need to provide an explanation of the proposed level under the condition proposed here. Given that many of the cases we looked at were the result of the initial direct debit having been set at an inappropriate level, we consider it important that all customers receive an explanation when the direct debit is first set up as well as when it is changed.

4.22. The other concern that has been raised is that under these proposals direct debit levels should be based on the best estimate of future consumption whereas some of the information provision requirements in the Probe focus on historic consumption. We see both historic consumption and estimated future consumption to be relevant information for consumers to have, for different purposes, and that there is no inconsistency in our approach.

### **Question 2 – What should be the scope of application of the licence conditions?**

4.23. In addition we wanted stakeholder input on what would be the appropriate coverage of any licence condition that we might introduce. We asked stakeholders if any new licence condition we introduced should apply to small business customers as well as domestic customers. We also asked for views on whether any new licence condition should apply to all suppliers irrespective of size or market share.

#### *Respondents' Views*

#### 4.24. Should any new licence condition which is adopted apply to small business customers?

4.25. Eight industry respondents said that small business customers should not be covered by any new licence condition that we might introduce. Six respondents (three consumer groups, two small suppliers and one supplier) said that if a licence condition was imposed it should be applied to small business customers. One consumer group said that any obligation adopted should also cover small business customers but that an impact assessment would need to be carried out first.

4.26. The main reasons given by the industry respondents as to why any new licence condition should not apply to small business customers were that -

- The Report was specific to the domestic market and so the issues relating to small business customers have not been reviewed.
- Different issues exist in relation to small business customers as compared with domestic customers.

4.27. Should any new licence condition which is adopted be imposed on all suppliers irrespective of their size or market share?

4.28. Four respondents (two suppliers, one small supplier and one consumer body) said if an obligation was adopted it should be imposed on all suppliers irrespective of their size or market share.

4.29. Amongst the reasons given for arguing that any new licence condition should be applied to all suppliers were the following comments -

- It was necessary to prevent the distortion of the competitive market.
- Many smaller suppliers are likely to already be providing their customers with transparent communications and so the licence condition should not add unduly to their regulatory burden.
- Customers of smaller suppliers should not receive lower levels of protection or be subject to poorer standards of communications.

*Ofgem's View*

4.30. Should any new licence condition which is adopted apply to small business customers?

4.31. As we did not analyse direct debit arrangements in relation to small business customers in our Report we do not think they should be covered by the new licence conditions at this stage. However we expect that suppliers as they develop their policies and procedures will apply them to small business customers as well in the interest of good customer service.

4.32. Should any new licence condition which is adopted be imposed on all suppliers irrespective of their size or market share?

4.33. We have concluded that the licence condition should apply to all suppliers regardless of their size or market share. The licence condition is designed to provide important consumer protection and we do not think that customers of small suppliers should experience lower levels of protection than other customers. Furthermore no small suppliers indicated in their responses that the proposed licence approach which focuses on securing outcomes rather than specifying specific methods of achieving them, would be an undue burden.

**Question 3 – When should any licence condition which is introduced be implemented?**

4.34. We asked stakeholders, if we ultimately decided to introduce a licence condition, what would be a realistic timetable for the implementation of that licence condition.

*Respondents' Views*

4.35. Six respondents (three consumer bodies, two small suppliers and one supplier) answered this question. Consumer groups were keen to see an early implementation while suppliers highlighted the need for time for implementation. The time suppliers considered they would require ranged from the end of the year to late 2011.

*Ofgem's View*

4.36. We intend the new licence conditions to be introduced and come into effect by 18 January 2010 in order to align the changes with a number of the changes being progressed by the Energy Supply Probe. This allows a period for suppliers to satisfy themselves that they are compliant. Our view is that this timescale is reasonable, given that our original recommendations were published in March and that we are not being prescriptive about the approach that suppliers should adopt.

4.37. In many cases suppliers have already taken steps to implement our recommendations, and we look to suppliers to put any new arrangements in place as soon as possible ahead of the licence condition coming into force.

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## 5. Next Steps

This chapter discusses the next steps we are taking in proposing modifications to the existing licences.

### **Legal framework for making the modifications**

5.1. We propose to introduce the licence modifications outlined earlier in this document using the collective licence modification process. The Statutory Notices contained in Appendices 4 and 5 propose licence modifications to the standard conditions of the gas and electricity supply licences. These licence modifications are set out in the Schedules to each Notice.

5.2. It is open to any interested party to make representations. In addition, relevant licence holders under section 23(12) of the Gas Act 1986 and section 11A(10) of the Electricity Act 1989 may give notice to the Authority if they object to the proposed modifications.

5.3. Any of the proposed modifications may be blocked by the objections of relevant licence holders<sup>1</sup> or by the Secretary of State directing the Authority not to make a modification.

5.4. In the event that the proposed licence modifications are blocked by way of objection, the Authority may consider alternative approaches. These include making a reference to the Competition Commission if we still want to proceed with a particular licence modification. If the Competition Commission subsequently decides that it is in the public interest for the modification to be made, then the Authority may implement the modification.

5.5. We would encourage relevant licence holders to let us know as soon as possible if they propose to object to the proposed modifications. This way, we will be able to understand properly the nature of any objection and to discuss possible ways forward. It should be noted that objections cannot be withdrawn after the final date set out in the Statutory Notices for objections to be submitted by 30 October 2009.

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<sup>1</sup> The Authority will not be able to make the modification that is subject to the objection where: 20 per cent or more of the relevant licence holders; or 20 per cent or more of the relevant licence holders weighted according to their market share, have given notice of objection to the Authority (and not withdrawn it) by the relevant date (which in this case is 30 October 2009).

## Appendices

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## Appendix 1 - Consultation Questions

1.1. In its consultation document, Ofgem sought the views of respondents about a number of questions as set out below:

### **CHAPTER: One**

**Question 1:** Do you agree with our analysis of the issues?

**Question 2:** Do you agree with the elements of best practice we have identified (described here and summarised in chapter 3)?

**Question 3:** Are there any other elements of best practice you think we should consider?

### **CHAPTER: Two**

**Question1:** Is a licence condition needed in this area? Please give reasons.

**Question2:** Do you consider that suppliers could deliver the improvements we have identified through self-regulation? Please give reasons.

### **CHAPTER: Three**

**Question1:** Which of the options A, B or C do you consider would be the better approach? Are there any other models we should consider?

**Question2:** Should any obligation apply to small business consumers as well as domestic consumers?

**Question3:** What would be a realistic timescale for implementation?



## List of Respondees

List	Name
1	Age Concern / Help the Aged
2	British Gas
3	Citizens Advice Bureau
4	Civil Service Pensioners' Alliance
5	Consumer Focus
6	Dave Vass - Consumer
7	EDF Energy
8	E.ON
9	Energy Retail Association
10	First Utility
11	Good Energy
12	Haven Power
13	James Insell - Consumer
14	Opus Energy
15	Robin Beasely - Consumer
16	RWE npower
17	Scottish Power
18	Scottish and Southern Energy
19	Steve Worrall - Consumer
20	Trading Standards Institute

## Summary of Responses

Responses received by Ofgem which were not marked as being confidential have been published on Ofgem's website

<http://www.ofgem.gov.uk/Consumers/CCI/Pages/DirectDebits.aspx> .

Copies of non-confidential responses are also available from Ofgem's library.

## Appendix 2 – The Licence Condition Options

### Option A

A targeted licence condition which addressed how suppliers communicate changes to direct debit payments. It was proposed that it might say:

“When setting and amending direct debit payments suppliers must provide customers with a clear statement of the basis for these payments (including assumed usage)”.

### Option B

A broader licence condition which would go beyond communication and which would set out high level expectations but leave details of how to achieve this to suppliers, allowing scope for innovation. It was proposed that the licence condition might read:

“Suppliers must take all reasonable steps to ensure that customer payment levels are based on the best available information and are explained clearly and accurately. Any credit built up by a customer should not be unreasonably withheld”.

### Option C

An obligation to comply with a code of practice, with detailed requirements described outside the licence. The code of practice could be written by Ofgem, or by the industry. It was proposed that the licence condition might read:

“Suppliers must ensure that any arrangements involving direct debit payments comply with the direct debit code of practice, as modified from time to time by Ofgem. ”

The options suggested for how the "direct debit code of practice" might be defined were:

- a. "put in place by Ofgem pursuant to this condition and following consultation with suppliers, Consumer Direct, Consumer Focus, and the Energy Ombudsman"; or
- b. "agreed between energy suppliers and published on their websites"; or
- c. "submitted to Ofgem by suppliers within x days of the introduction of this condition and approved by Ofgem, following consultation with Consumer Direct, Consumer Focus, and the Energy Ombudsman".

### Appendix 3 – Additional Elements of Best Practice Suggested by the Respondents

<b>Number of Respondents Supporting the Best Practice Recommendation</b>	<b>Suggested Best Practice</b>
1 Consumer	When a credit balance exceeds twice the monthly direct debit payment an automatic reassessment of the customer's consumption levels and monthly direct debit payment should be triggered.
1 Consumer	Suppliers should be required to provide customers with the calculation that underpins any revised direct debit payment.
1 Consumer	Suppliers should be required to operate their direct debits on a normal 12 month cycle for payments based commencing on the anniversary of joining.
1 Age Concern – Help the Aged	The "payment year" should be set out clearly on customers' bill as well as being explained to them when they set up their direct debit.
2 Consumer and Civil Service Pensioners' Alliance	At the end of the 12 month period any amount of credit should automatically be refunded to the customer unless the customer asks for the credit to be carried forwards.
1 Civil Service Pensioners' Alliance	There should be a set level of credit that a supplier can hold before the supplier is required to refund the money to the customer. If a supplier provides gas and electricity the level of credit should be based on the level of credit on both fuel accounts even where the supplies are billed separately.
1 Consumer Focus	Suppliers should be obliged to review customers' direct debit payments within 90 calendar days of a price change and if necessary amend its customers' direct debit payments.
1 Consumer Focus	An obligation should be imposed on suppliers requiring them to send out letters to customers at the end of their annual review offering customers the option of having their credits refunded.
1 Consumer Focus	An industry wide standard for large credit balances to be automatically refunded at the annual review.
1 Consumer Focus	Supplier should have to take into account a customer's ability to pay when requiring the repayment of debts. A customer should not have to repay debts within a 12 month period if it not appropriate to his circumstances.
1 Consumer Focus	Where a pre-payment meter customer moves to a direct debit payment method there should be a review of that customer's consumption levels after three months of the change in payment method to make the direct debit payment levels more accurate.
1 Scottish Power	An existing Ofgem proposal should be modified so that it reads: "Suppliers should ensure that reassessments are carried out on a timely basis, taking account of the need to manage customer contact levels."

## Appendix 4 - Notice of Proposed Modification to Electricity Supply Licence Standard Conditions

**To: All holders of an electricity supply licence**

### **NOTICE OF MODIFICATION OF THE STANDARD CONDITIONS OF ELECTRICITY SUPPLY LICENCES UNDER SECTION 11A OF THE ELECTRICITY ACT 1989**

Whereas:

1. Each of the companies to whom this notice is addressed holds an electricity supply licence granted, or treated as granted, pursuant to section 6(1)(d) of the Electricity Act 1989 (the "Act").
2. In accordance with section 11A(3) and (4) of the Act, the Gas and Electricity Markets Authority (the "Authority") gives notice ("Notice") that it proposes to modify the standard conditions of the electricity supply licence.
3. The proposed licence modification is set out in Schedule 1 to this Notice.
4. The reasons why the Authority proposes to make this modification have been published by the Authority in the following document:
  - Direct Debit Arrangements – Decision Document, 2 October 2009.
5. This document is available free of charge from the Ofgem library, 9 Milbank, London SW1P 3GE (0207 901 7003) or from the Ofgem website [www.ofgem.gov.uk](http://www.ofgem.gov.uk).
6. Subject to responses, it is intended that the date on which the modification takes effect will be 18 January 2010.
7. In summary, the proposed licence conditions aim to ensure that the interests of consumers are protected by requiring that:
  - i) the licensee takes all reasonable steps to ensure that domestic customers' direct debit payment levels are based on the best available information, including the quantity of electricity supplied or to be supplied to the domestic customer;
  - ii) the licensee takes all reasonable steps to ensure that the basis for a domestic customer's direct debit payment levels is clearly explained to the domestic customer; and
  - iii) the licensee refunds credit which has accumulated in a domestic customer's account at the request of the domestic customer unless there are fair and reasonable grounds for withholding that credit. The reasons for withholding that credit are conveyed to the domestic customer.

8. Any representations or objections to the proposed modification may be made before 30 October 2009 and sent to:

Andy Burgess  
Head of Enforcement & Competition Policy  
Ofgem  
9 Millbank  
London SW1P 3GE

Or by e-mail to [Andy.Burgess@ofgem.gov.uk](mailto:Andy.Burgess@ofgem.gov.uk).

9. Although any person may make representations, only those licensees who are "relevant licence holders" under section 11A(10) of the Act may register a formal objection to any proposed modification.

2 October 2009

Maxine Frerk

Partner, Governance, Consumer and Social Affairs

Ofgem

Authorised on behalf of the Authority

**SCHEDULE 1****MODIFICATION OF THE STANDARD LICENCE CONDITIONS OF ELECTRICITY SUPPLY LICENCES UNDER SECTION 11A OF THE ELECTRICITY ACT 1989****The licence Condition**

*Add to existing Standard Licence Condition 27 'Payment methods under Domestic Supply Contract':*

27.13 Paragraphs 14, 15 and 16 apply where a Domestic Customer pays the Charges for the Supply of Electricity which are payable under its Domestic Supply Contract by way of regular direct debit payments of a fixed amount (which amount may be varied from time to time in accordance with the relevant Domestic Supply Contract).

27.14 The licensee must provide to each such Domestic Customer an explanation in clear, plain and intelligible language of the basis upon which a fixed amount (and any variation of that fixed amount) has been determined.

27.15 Save where a clear and express Principal Term of the relevant Domestic Supply Contract provides otherwise, the licensee must take all reasonable steps to ensure that the fixed amount of the regular direct debit payment is based on the best and most current information available (or which reasonably ought to be available) to the licensee, including information as to the quantity of electricity which the licensee reasonably estimates has been or will be supplied under the relevant Domestic Supply Contract.

27.16 Where any Credit has accumulated under a Domestic Supply Contract and the relevant Domestic Customer requests that the licensee do so, the licensee must, save where it is fair and reasonable in all the circumstances for the licensee not to do so, refund, in a timely manner, any Credit which has accumulated under that Domestic Supply Contract to the relevant Domestic Customer. Where the licensee considers that it is fair and reasonable in all the circumstances for it not to refund any Credit which has accumulated under a Domestic Supply Contract in accordance with this provision, it must inform the relevant Domestic Customer of its view and of the reasons for holding that view.

In this condition, "Credit" means the amount by which the payments made by a Domestic Customer to the licensee under or in accordance with the relevant Domestic Supply Contract exceeds the total amount of Charges for the Supply of Electricity which is due and payable by that Domestic Customer to the licensee under that Domestic Supply Contract.

## Appendix 5 - Notice of Proposed Modification to Gas Supply Licence Standard Conditions

### To: All holders of a gas supply licence

#### **NOTICE OF MODIFICATION OF THE STANDARD CONDITIONS OF GAS SUPPLY LICENCES UNDER SECTION 23(1)(b) OF THE GAS ACT 1986**

Whereas:

1. Each of the companies to whom this notice is addressed holds a gas supply licence granted, or treated as granted pursuant to section 7A(1) of the Gas Act 1986 (the "Act").
2. In accordance with section 23(3) and (4) of the Act, the Gas and Electricity Markets Authority (the "Authority") gives notice ("Notice") that it proposes to modify the standard conditions of the gas supply licence.
3. The proposed licence modification is set out in Schedule 1 to this Notice.
4. The reasons why the Authority proposes to make this modification have been published by the Authority in the following document:
  - Direct Debit Arrangements – Decision Document, 2 October 2009.
5. This document is available free of charge from the Ofgem library, 9 Milbank, London SW1P 3GE (0207 901 7003) or from the Ofgem website [www.ofgem.gov.uk](http://www.ofgem.gov.uk).
6. Subject to responses, it is intended that the date on which the modification takes effect will be 18 January 2010.
7. In summary, the proposed licence conditions aim to ensure that the interests of consumers are protected by requiring that:
  - i) the licensee takes all reasonable steps to ensure that domestic customers' direct debit payment levels are based on the best available information, including the quantity of electricity supplied or to be supplied to the domestic customer;
  - ii) the licensee takes all reasonable steps to ensure that the basis for a domestic customer's direct debit payment levels are clearly explained to the domestic customer; and
  - iii) the licensee refunds credit which has accumulated in a domestic customer's account at the request of the domestic customer unless there are fair and reasonable grounds for withholding that credit. The reasons for withholding that credit are conveyed to the domestic customer.

8. Any representations or objections to the proposed modification may be made before 30 October 2009 and sent to:

Andy Burgess  
Head of Enforcement & Competition Policy  
Ofgem  
9 Millbank  
London SW1P 3GE

Or by e-mail to [Andy.Burgess@ofgem.gov.uk](mailto:Andy.Burgess@ofgem.gov.uk).

9. Although any person may make representations, only those licensees who are "relevant licence holders" under section 23(12) of the Act may register a formal objection to any proposed modification.

2 October 2009

Maxine Frerk

Partner, Governance, Consumer and Social Affairs

Ofgem

Authorised on behalf of the Authority



**SCHEDULE 1****MODIFICATION OF THE STANDARD LICENCE CONDITIONS OF GAS SUPPLY LICENCES UNDER SECTION 23(1(B) OF THE GAS ACT 1986****The licence Condition**

*Add to existing Standard Licence Condition 27 'Payment methods under Domestic Supply Contract':*

27.13 Paragraphs 14, 15 and 16 apply where a Domestic Customer pays the Charges for the Supply of Gas which are payable under its Domestic Supply Contract by way of regular direct debit payments of a fixed amount (which amount may be varied from time to time in accordance with the relevant Domestic Supply Contract).

27.14 The licensee must provide to each such Domestic Customer an explanation in clear, plain and intelligible language of the basis upon which a fixed amount (and any variation of that fixed amount) has been determined.

27.15 Save where a clear and express Principal Term of the relevant Domestic Supply Contract provides otherwise, the licensee must take all reasonable steps to ensure that the fixed amount of the regular direct debit payment is based on the best and most current information available (or which reasonably ought to be available) to the licensee, including information as to the quantity of electricity which the licensee reasonably estimates has been or will be supplied under the relevant Domestic Supply Contract.

27.16 Where any Credit has accumulated under a Domestic Supply Contract and the relevant Domestic Customer requests that the licensee do so, the licensee must, save where it is fair and reasonable in all the circumstances for the licensee not to do so, refund, in a timely manner, any Credit which has accumulated under that Domestic Supply Contract to the relevant Domestic Customer. Where the licensee considers that it is fair and reasonable in all the circumstances for it not to refund any Credit which has accumulated under a Domestic Supply Contract in accordance with this provision, it must inform the relevant Domestic Customer of its view and of the reasons for holding that view.

In this condition, "Credit" means the amount by which the payments made by a Domestic Customer to the licensee under or in accordance with the relevant Domestic Supply Contract exceeds the total amount of Charges for the Supply of Electricity which is due and payable by that Domestic Customer to the licensee under that Domestic Supply Contract.

## Appendix 6 – The Authority’s Powers and Duties

1.1. Ofgem is the Office of Gas and Electricity Markets which supports the Gas and Electricity Markets Authority (“the Authority”), the regulator of the gas and electricity industries in Great Britain. This Appendix summarises the primary powers and duties of the Authority. It is not comprehensive and is not a substitute to reference to the relevant legal instruments (including, but not limited to, those referred to below).

1.2. The Authority's powers and duties are largely provided for in statute, principally the Gas Act 1986, the Electricity Act 1989, the Utilities Act 2000, the Competition Act 1998, the Enterprise Act 2002 and the Energy Act 2004, as well as arising from directly effective European Community legislation. References to the Gas Act and the Electricity Act in this Appendix are to Part 1 of each of those Acts.<sup>2</sup>

1.3. Duties and functions relating to gas are set out in the Gas Act and those relating to electricity are set out in the Electricity Act. This Appendix must be read accordingly<sup>3</sup>.

1.4. The Authority’s principal objective when carrying out certain of its functions under each of the Gas Act and the Electricity Act is to protect the interests of existing and future consumers, wherever appropriate by promoting effective competition between persons engaged in, or in commercial activities connected with, the shipping, transportation or supply of gas conveyed through pipes, and the generation, transmission, distribution or supply of electricity or the provision or use of electricity interconnectors.

1.5. The Authority must when carrying out those functions have regard to:

- the need to secure that, so far as it is economical to meet them, all reasonable demands in Great Britain for gas conveyed through pipes are met;
- the need to secure that all reasonable demands for electricity are met;
- the need to secure that licence holders are able to finance the activities which are the subject of obligations on them<sup>4</sup>;
- the need to contribute to the achievement of sustainable development; and
- the interests of individuals who are disabled or chronically sick, of pensionable age, with low incomes, or residing in rural areas.<sup>5</sup>

1.6. Subject to the above, the Authority is required to carry out the functions referred to in the manner which it considers is best calculated to:

<sup>2</sup> entitled “Gas Supply” and “Electricity Supply” respectively.

<sup>3</sup> However, in exercising a function under the Electricity Act the Authority may have regard to the interests of consumers in relation to gas conveyed through pipes and vice versa in the case of it exercising a function under the Gas Act.

<sup>4</sup> under the Gas Act and the Utilities Act, in the case of Gas Act functions, or the Electricity Act, the Utilities Act and certain parts of the Energy Act in the case of Electricity Act functions.

<sup>5</sup> The Authority may have regard to other descriptions of consumers.

- promote efficiency and economy on the part of those licence d<sup>6</sup> under the relevant Act and the efficient use of gas conveyed through pipes and electricity conveyed by distribution systems or transmission systems;
- protect the public from dangers arising from the conveyance of gas through pipes or the use of gas conveyed through pipes and from the generation, transmission, distribution or supply of electricity; and
- secure a diverse and viable long-term energy supply.

1.7. In carrying out the functions referred to, the Authority must also have regard, to:

- the effect on the environment of activities connected with the conveyance of gas through pipes or with the generation, transmission, distribution or supply of electricity;
- the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed and any other principles that appear to it to represent the best regulatory practice; and
- certain statutory guidance on social and environmental matters issued by the Secretary of State.

1.8. The Authority has powers under the Competition Act to investigate suspected anti-competitive activity and take action for breaches of the prohibitions in the legislation in respect of the gas and electricity sectors in Great Britain and is a designated National Competition Authority under the EC Modernisation Regulation<sup>7</sup> and therefore part of the European Competition Network. The Authority also has concurrent powers with the Office of Fair Trading in respect of market investigation references to the Competition Commission.

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<sup>6</sup> or persons authorised by exemptions to carry on any activity.

<sup>7</sup> Council Regulation (EC) 1/2003

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## Appendix 7 - Glossary

### A

#### Authority

The Gas and Electricity Markets Authority ('GEMA') established under section 1 of the Utilities Act 2000.

### D

#### Direct Debit

A method of payment where a fixed or variable amount is taken from a bank account each month, quarter or year.

### S

#### Standard Electricity Supply Conditions

Electricity Supply Licence Standard Conditions issued by GEMA as at 1 April 2009.

#### Standard Gas Supply Conditions

Gas Supply Licence Standard Conditions issued by GEMA as at 1 April 2009.

## Appendix 8 - Feedback Questionnaire

1.1. Ofgem considers that consultation is at the heart of good policy development. We are keen to consider any comments or complaints about the manner in which this consultation has been conducted. In any case we would be keen to get your answers to the following questions:

- Does the report adequately reflect your views? If not, why not?
- Does the report offer a clear explanation as to why not all the views offered had been taken forward?
- Did the report offer a clear explanation and justification for the decision? If not, how could this information have been better presented?
- Do you have any comments about the overall tone and content of the report?
- Was the report easy to read and understand, could it have been better written?
- Please add any further comments.

1.2. Please send your comments to:

**Andrew MacFaul**  
Consultation Co-ordinator  
Ofgem  
9 Millbank  
London  
SW1P 3GE  
andrew.macfaul@ofgem.gov.uk